

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MOHAMMED SABBAGHI

Plaintiff,

v.

MICHAEL CHERTOFF, Secretary,
Department of Homeland Security, and
JULIA HARRISON, Seattle Field Office
Director, U.S. Citizenship and
Immigration Services

Defendants.

NO. C08-01641

**SURREPLY TO DEFENDANT'S REPLY TO
PLAINTIFF'S OPPOSITION TO U.S.'S
MOTION TO EXTEND TIME TO ANSWER,
PLEAD, OR OTHERWISE RESPOND TO
PLAINTIFF'S COMPLAINT**

COME NOW the Plaintiff, Mohammed Sabbaghi, by and through his counsel, Bart Klein, and submits this Surreply to Defendants' Reply to Plaintiff's Opposition to Defendants' motion pursuant to Fed.R.Civ.P. 16(b)(4), to extend the deadline to answer, plead, or otherwise respond to Plaintiff's complaint.

The previous two naturalization actions with this Plaintiff were Petitions for Naturalization Hearing and Court Grant of Naturalization pursuant to 8 U.S.C. 1447(b). In addition to jurisdiction under 8 U.S.C. 1447(b), jurisdiction under the APA was alleged. See Sabbaghi v. Gonzalez et. al., C06-024 6RSL; Sabbaghi v. Mukasey et.al., C08-0168 RSL They were not actions just limited to procedural matters.

PLAINTIFF'S SURREPLY TO MOTION
TO EXTEND TIME TO ANSWER...
Case No. C08-01641-TSZ
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1 APA §706 requires court to consider the “whole record.” LR 79(h) requires agency to file the
2 administrative record when they answer, which is within 60 days of the filing of the petition. The
3 “whole record” was first due to be filed with the Court on April 18, 2006.

4 Whether the action is a Petition for Review of Naturalization Denial or Petition for
5 Naturalization Hearing After Failure of USCIS To Make a Naturalization Application Determination
6 Within 120 Day of Naturalization Examination Pursuant to 8 U.S.C. 1447(b), the Court has the
7 power to grant a de novo hearing and grant naturalization. In addition, this Court regularly grants
8 summary judgement judicial naturalization with 8 U.S.C. 1447 (b) jurisdiction, and obviously the
9 “whole file” is needed to make such naturalization grants. See Bougai v. Mukasey, C08-624RSL and
10 most recently on January 6, 2008, Khan v. Chertoff, C08-1448 RSM.

11 Defendants makes unsupported claims that the Seattle USCIS is unable to provide the
12 “whole file.” No affidavit or statement has been attached by USCIS since such USCIS is totally
13 capable to produce such file in one day. On Wednesday, three senior adjudicators, including
14 Adjudicator Susan Walk, who normally provides such statements for the Seattle USCIS, interviewed
15 another of counsel’s clients who had filed a naturalization action in this Court (Maarouf v. Mukasey,
16 C08-1345RSL). Clearly one such adjudicator could have instead prepared this file’s “whole record.”

17 DATED This 9th day of January, 2009.

18 s/BART KLEIN Attorney for Petitioner
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26 CERTIFICATE OF SERVICE

27 I, Bart Klein, hereby certify that on January 9, 2009, I electronically filed the
28 foregoing Plaintiff’s Surrely...with the Clerk of the Court using the CM/ECF system which will send
notification of such filing to the following CM/ECF participant:

STACEY I. YOUNG e-mail stacey.young@usdoj.gov

I further certify that on the same date I caused to be mailed by United States Postal Service a copy
of the foregoing Plaintiff’s Surreply... to the following non-CM/ECF participant: 0

Dated this 9th day of January, 2009.

s/ BART KLEIN

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